

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
<b>Buffalo Baptist Church</b>	)	
	)	
Cancellation of License for LPFM Station	)	BLL-20100304AAI
DKBTG-LP, Buffalo, Wyoming	)	Facility ID No. 126655
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: March 10, 2016**

**Released: March 10, 2016**

By the Commission:

1. In this Memorandum Opinion and Order, we deny the Application for Review filed by Buffalo Baptist Church (BBC) on November 30, 2015. BBC seeks review of an October 29, 2015, letter decision by the Audio Division, Media Bureau (*Letter Decision*)<sup>1</sup> cancelling BBC's license for LPFM Station DKBTG-LP, Buffalo, Wyoming (Station) and deleting the Station's call sign pursuant to the automatic license expiration provision of Section 312(g) of the Communications Act of 1934, as amended (Act).<sup>2</sup>

2. BBC argues that the Bureau should have "waived" Section 312(g) because BBC, a "novice licensee" then unrepresented by counsel, misunderstood the statutory limitation on the length of time a station may remain silent.<sup>3</sup> Specifically, BBC states that it erroneously believed that the May 5, 2015, deadline by which it had to resume operations and avoid license cancellation pursuant to Section 312(g) would be extended because: (1) it acquired the Station in November 2014, when the Station was already off the air;<sup>4</sup> and (2) it had been granted a modification construction permit that was valid until a date past the Section 312(g) deadline, "which it believed superseded the 12-month deadline to return to the air."<sup>5</sup> In the *Letter Decision*, the Bureau rejected these arguments, explaining that the Commission exercises its discretion under Section 312(g) to extend or reinstate a station's expired license "to promote

<sup>1</sup> *Matthew H. McCormick, Esq.*, Letter Order, Ref. No. 1800B3-VM (MB Oct. 29, 2015); *see also Pastor J. Robertson*, Letter, Ref. No. 1800B3-VM (MB July 1, 2015) (notifying BBC that, because the Station had been silent since at least May 4, 2014, the Station license would be cancelled unless the Commission received documentation that the Station had returned to the air with authorized facilities by 12:01 a.m., May 5, 2015); "Petition for Relief Under Section 312(g) of the Communications Act" filed by BBC on August 14, 2015.

<sup>2</sup> 47 U.S.C. § 312(g) (providing that the license of any station that fails to transmit broadcast signals for any consecutive 12-month period expires automatically at the end of that period).

<sup>3</sup> Application for Review at 3.

<sup>4</sup> Application for Review at 2; File No. BALL-20140909AFP (Assignment Application), Exh. 14. We note that, in that Exhibit to its application for approval of its acquisition of the Station, BBC represented, "An application will be filed for authorization to move the Station to property owned by the Assignee. Assuming the application is timely approved, the station will be moved to the new site and returned to full-time operation within 90 days after closing." The parties closed on the assignment on November 7, 2014. Although the Bureau expeditiously granted that modification application (File No. BPL-20150116AGR) (Modification Application) on January 29, 2015, BBC failed to meet its stated commitment to so resume service.

<sup>5</sup> Application for Review at 5.

equity and fairness”<sup>6</sup> very strictly and generally only where the failure to transmit broadcast signals for 12 consecutive months is due to circumstances beyond the licensee’s control.<sup>7</sup> The Bureau also noted that, with regard to BBC’s claimed confusion, BBC had received two clear written warnings regarding the impending Section 312(g) expiration date before that date, the first at the time that the Bureau granted the Assignment Application.<sup>8</sup>

3. Upon review of the Application for Review and the entire record, we conclude that BBC has not demonstrated that the Bureau erred. The Bureau, in the *Letter Decision*, properly decided the matters raised, and we uphold its decision for the reasons stated therein.

4. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended,<sup>9</sup> and Section 1.115(g) of the Commission’s Rules,<sup>10</sup> the Application for Review IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

---

<sup>6</sup> We note that, contrary to BBC’s characterization in its Application for Review, no waiver of Section 312(g) is involved. Rather, the statute expressly empowers the Commission to “extend or reinstate” an otherwise expired license upon an appropriate showing by the licensee. See 47 U.S.C. § 312(g).

<sup>7</sup> *Letter Decision* at 1-2, n.8, citing *V.I. Stereo Commc’ns Corp.*, Memorandum and Order, 21 FCC Rcd 14259, 14262 (2006) (reinstating license where silence due to destruction of towers in hurricanes); *Cm’ty Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008) (extending expiration deadline where FCC and FAA records contained incorrect tower information, for which licensee was not responsible); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578, 6580 (MB 2007) (reinstating license where silence necessitated by licensee’s compliance with court order).

<sup>8</sup> *Letter Decision* at 2. Both the November 6, 2014, assignment authorization and a February 12, 2015, letter granting BBC’s request for extension of special temporary authority to remain silent (File No. BLESTA-20150120AAL) alerted BBC to the fact that the Station license would expire on May 5, 2015, if the Station had not returned to the air. Specifically, the assignment authorization stated, “Commission records reflect that [the Station] has been off the air since May 4, 2014. Therefore, the license for this station will expire as a matter of law if the station does not resume broadcast operations by May 5, 2015, 12:01AM. See Pub. Law No. 104-104, 110 Stat. 56, Sec. 403(l), codified at 47 U.S.C. Section 312(g).”

<sup>9</sup> 47 U.S.C. § 155(c)(5).

<sup>10</sup> 47 CFR § 1.115(g).